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THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

The relationship between the enjoyment of human rights, in particular, international labour and trade union rights, and the working methods and activities of transnational corporations

Background document prepared by the Secretary-General

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Introduction

1. At its forty-sixth session in 1994, the Sub-Commission, in resolution 1994/37, recalling the provisions of the Charter which establish that one of the purposes of the United Nations is to achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character and in promoting and encouraging respect for human rights for all, and mindful of the Vienna Declaration and Programme of Action in which the need is underlined for a concerted effort to ensure recognition of economic, social and cultural rights at the national, regional and international levels, requested the Secretary-General, inter alia, to prepare for its consideration at its forty-seventh session a background document examining the relationship between the enjoyment of human rights, in particular, international labour and trade union rights, and the working methods and activities of transnational corporations.

2. The present background document is entirely based on reports and studies of the United Nations system. The list of documents consulted in the preparation of the present document is attached at annex. Information on international labour and trade union rights was compiled in collaboration with ILO. In order to establish the relationship between human rights and the working methods and activities of transnational corporations, it would be necessary first to describe the working methods and activities. Chapter I of this background document will, therefore, describe the working methods and activities of transnational corporations and chapter II will present some of the human rights that may be affected by these practices.

3. While the present background document addresses several working methods and activities of transnational corporations, it does not intend to be exhaustive.

I. THE ACTIVITIES AND WORKING METHODS OF TRANSNATIONAL CORPORATIONS

4. Transnational corporations (TNCs) have been described as enterprises which own or control production or service facilities outside the country in which they are based. Their products are manufactured simultaneously in different countries, and sold through integrated distribution systems which transcend national frontiers. According to UNCTAD, 90 per cent of all TNCs are located in a few industrialized countries, with their foreign affiliates located in a relatively small number of host countries of the 100 largest TNCs, 53 are located in Western Europe, 27 in the United States and 14 in Japan. Despite the geographical concentration of parent companies and their affiliates, however, a growing number of TNCs are chartered in developing countries. During the last four decades, the growth and spread of TNCs, together with the increasing sophistication of their operations, has had a major impact on the development of many countries. TNCs are the key mechanism through which national labour markets are affected by international capital conditions and regional changes in goods and services markets.

5. TNCs are very influential actors in the global economy, controlling over 33 per cent of private global productive assets and 70 per cent of products in international trade, as well as accounting for a major share of the world's technological innovations and the industrialized world's gross

national product (GNP). TNCs are major conduits for the international flow of financial capital. Foreign direct investment (FDI) by TNCs involves not only capital flows but is also the means by which technology, management skills and new organizational forms are transferred between countries.

6. Through their role in FDI, TNCs possess particular influence over global economic and social development. The growing influence of TNCs can be seen in the increase in the stock of FDI. Between 1985 to 1990, FDI grew almost three times as fast as world exports. For this period, the average annual growth rate for FDI outflows was 33 per cent compared to 13 per cent for exports. 1/ FDI outflows originate almost exclusively from a few large TNCs with headquarters in industrialized countries. Only 1 per cent of parent TNCs account for one half of global FDI stock in foreign affiliates and 95 per cent originated in developed countries. Because of its growing importance, this section will focus primarily on the working methods and activities of TNCs in this area.

7. The past two decades have witnessed an unprecedented expansion in international capital flows which has been provoked by massive transformation and restructuring of economic activities throughout the world. At the heart of this change is the shift in economic policy and organization in favour of market forces and private enterprise, which in many countries followed the economic stagnation and debt crisis of the 1970s and 1980s. The emphasis has been on restoring economic equilibrium through liberalization of markets, including capital markets; reduction of State intervention in the economy; privatization of a broad range of enterprises and liberalization of regulations on foreign control of assets, allowing TNCs to enter previously closed industries; reforming taxation systems; and reduction of government expenditures, often including cuts in social services and reductions in subsidies on consumer goods. In many debtor developing countries, these changes have been brought about under pressure from international creditors, through the implementation of structural adjustment programmes. In order to attract and retain TNCs, many developing countries provide tax moratoriums, profit repatriation facilities and various other advantages. Attracting FDI also "often mandates wage restraint in order that particular national labour forces should not 'price themselves out of jobs' or more accurately out of international competition for the location of those jobs". 2/

8. Recent transformations in the global economy and the structure of corporate activities have radically restructured the relationship between TNCs, society and the State. Such trends have undermined the delicate balance of power between corporate management and labour as well as between corporations and governments. Although the primary responsibility for development lies with States, changing economic conditions are reducing the margin of manoeuvre available to States in this respect, whereas the power of TNCs has increased. The weakening bargaining power of States, particularly of developing countries, has contributed to reinforcing already existing inequalities also at the international level.

9. It has been shown that the gaps in income and employment opportunities between rich and poor nations and between rich and poor peoples is widening at an alarming pace. Between 1960 and 1989, the countries with the richest 20 per cent of world population grew 2.7 times faster than the bottom

20 per cent. In terms of income, during the same period, the share received by the top 20 per cent of the world's population increased from being 30 to 60 times more than the bottom 20 per cent. Adding the maldistribution within countries, the same report estimated that the richest 20 per cent of the world's people get at least 150 times more than the poorest 20 per cent.

10. A recent United Nations paper, prepared in the context of the World Summit for Social Development, pointed out that although TNCs may not be responsible for the conditions which originally precipitated such inequalities, their activities with respect to FDI often exacerbate the situation. Transnational corporations can perpetuate inequitable social and economic systems through their employment practices and their activities affecting consumers.

11. Despite efforts made by developing countries to attract foreign investments, FDI flows remain extremely unequal. Since investors look for higher rates of profit on their capital and rich and poor countries compete in the global marketplace as unequal partners, only a small percentage of FDI flows goes to developing countries. Of the global flows of FDI, the developing countries have been getting a steadily smaller share: from 31 per cent in 1968 to 17 per cent in 1988/89. Eighty-three per cent went to industrialized countries. Even at its peak in 1975, FDI to developing countries was equal to only 0.9 per cent of their GDP and by 1980-1985, a mere 0.4 per cent. Developing countries that do receive investment tend to be the already better off. No more than 0.2 per cent of transnational investment is directed to the bottom 20 per cent of the world's population. It has been pointed out that the role of international markets as reflected, for instance, in the pattern of FDI flows, is one of the reasons for the widening disparities in the distribution of global economic opportunities between rich and poor nations.

A. The activities of TNCs and investment priorities

12. The rapid increase in FDI flows has been accompanied by a pronounced change in their sectoral distribution from the primary and labour-intensive manufacturing sectors towards the service sector (including transportation, travel, telecommunications, media, business services, engineering and construction, banking and financial services, insurance and real estate). The stock of FDI in the secondary sector has declined, relative to services; services account for almost 60 per cent of annual FDI flows worldwide. Changes in the sectoral distribution of FDI has also been accompanied by a shift in investment priorities from labour-intensive technology to capital-intensive technology. As a result, even within the labour-intensive manufacturing sector, there has been a significant shift in investment to more capital-intensive industries.

13. The shift in investment priorities by TNCs has had adverse effects on employment, in terms of numbers of jobs created as well as the composition of the labour force. It has also had adverse affects on access to goods and services essential for survival in developing countries.

14. The manufacturing sector plays an important role both as a source of employment and in the production of essential goods. Although TNCs employ

only a small fraction of the total global workforce, they are particularly important employers in the manufacturing industries, accounting for between 10 per cent and 20 per cent or more of the total manufacturing employment. In developing countries, employment within TNCs in the modern manufacturing sector is often substantial.

15. Service sector industries are more intensive in the employment of financial capital and technologies and less intensive in physical capital or labour. They, thus, have a lower employment-generating capacity than manufacturing. For instance, an increase in the share of the service sector in outward FDI of over 10 per cent in Germany and the United States and 18 per cent in Japan generated only a 4 per cent increase in the share of employment in foreign affiliates in Germany and the United States, and even less in Japan. On the other hand, for most countries in the 1990s, 30-50 per cent of FDI generated 70-80 per cent of foreign affiliate manufacturing employment. The recent slow or almost non-existent employment increases generated by TNCs in some developed countries has been attributed partly to the shift in FDI from manufacturing to the service sector. It has been stated that increases in tertiary/service sector employment is not sufficient to compensate for the decline in employment in the manufacturing sector of the affiliates of the developed host country TNCs.

16. New technology and the continuing drive for higher productivity encourage TNCs even in low wage countries to build labour-efficient plants. In some developing countries, investments in the capital-intensive service sector have grown faster than in the traditionally labour-intensive manufacturing sector, even though its share of GNP has remained low. The increased utilization of labour-saving technologies has been cited as the main reason for what has been described as "jobless growth", in developed and developing alike. Estimations for some industrialized countries show that between 1973 and 1987, three quarters of the rise in output came from increases in total productivity, with the rest from increased capital investment, without creating jobs. In developing countries, between 1960 and 1987 less than one third of the increase in output came from increased labour, and more than two thirds from increases in capital investment. The concentration in capital- and technology-intensive production by TNCs is among the factors that limit direct employment effects. It has been stated that many TNCs have been reducing their aggregate totals of employees as they become increasingly capital intensive and fire workers to minimize costs.

17. Despite their significance in the global economy, TNCs directly employ only 2 to 3 per cent of the world's workforce, representing approximately 70 million people. Since some two thirds of the total number of TNCs are located in their home countries and are strongly home-based in terms of employment, over 70 per cent (50 million) of those employed are found in industrialized countries. However, employment directly provided by TNCs even in these countries remains low. In 1990, the level of such employment amounted to only 4 per cent in the United States, 3 per cent in the European Community, and in Japan it was barely visible.

18. In developing countries, which are predominantly agricultural, the numbers employed, relative to total national employment, is virtually inconsequential. It has been pointed out that TNCs have made substantial

investments in these countries without creating large numbers of jobs. In 1990, for instance, less than 1 per cent of the economically active population in developing countries were directly employed by TNCs. And these tend to be skilled workers using capital-intensive technology in the more "modern" sectors of the economy. In the 1980s, even though employment in foreign affiliates generally expanded, it decreased in Africa, West Asia and Latin America.

19. The shift in investment priorities has not only affected the quantity of employment available, it has also entailed changes in the quality of jobs provided and has contributed to increasing disparities between high-skilled, well-paid, more stable workers, on the one hand, and low-skilled, low-paid, unstable workers, on the other. This is because disparities in salaries and wages within and between services tend to be greater than in the manufacturing sector, the former being more polarized between low-paid, low-skilled and insecure jobs, on the one hand, and well-paid professional jobs, on the other.

20. Non-standard forms of employment, especially part-time work, is more prevalent in services than in agriculture, manufacturing and the extractive industry, with predominance of women in these jobs. Retailing, hotels and restaurant services are particularly known to employ a significant number of part-time and seasonal workers. These atypical or precarious forms of employment place workers in a disadvantageous position because the employment relations are not governed by the standards concerning wages and working conditions and social security that apply to persons in full-time employment. Casual, temporary or part-time workers are also usually non-unionized and are, therefore, in a weaker bargaining position as opposed to technical and professional employees who may work under similar contractual arrangements. Non-standard forms of employment, therefore, contributed to mounting concerns about job-security.

21. Working conditions in this sector, especially in developing countries, can also deteriorate. It has been reported, for instance, that in some developing countries, women data-processors employed by TNCs frequently suffer from exhaustion, migraine, anxiety and stress because of the intensive nature of their tasks and the long hours in front of computers. A high rate of abnormalities in pregnancies and childbirth has also been observed.

22. Opening up certain services such as telecommunications, transport, banking and finance, insurance and securities trading, which are subject to strong economies of scale, might cause local enterprises in these services, especially in developing countries, to be overwhelmed by the greater sophistication and market power of services provided by TNCs from industrialized countries. This can have adverse effects on local enterprises in these services as well as on workers employed by them. Capital and technology (improvements in which also require substantial financial backup) play a significant role in these industries and, even in industrial countries, corporations are having to merge into ever larger enterprises to compete. Since developing countries find it difficult to compete in sectors that require large amounts of capital, opening these services up to TNCs is likely to further increase disparities between the rich and poor countries as well as between rich and poor people.

23. It has been pointed out that with the implementation of the agreements, adopted within the Uruguay Round of Multilateral Trade Negotiations, further increases of FDI into the service sector will take place and pressure for privatization and deregulation of services that up to now enjoyed a high degree of national protection from international competition will intensify throughout the world. While this will open up new employment opportunities, especially in developing countries, it is likely that many adverse effects will occur in the areas of wages, working conditions and social protection.

24. Investment in the service sector can be beneficial for developing countries if it arises out of, and serves to improve the socio-economic requirements, living standards and working conditions of people in these countries. However, significant improvements in financial indicators have not been reflected in overall socio-economic development. On the contrary, figures indicate a decline in socio-economic development, reflected in rising unemployment and poverty. As indicated above, an increasing proportion of TNC profits are invested in the financial rather than productive sector. Moreover, high profits accruing from investment in the financial sector do not necessarily benefit the country concerned as these are often invested elsewhere.

25. In the agricultural sector, TNC agribusiness ventures in developing countries are generally export oriented, large scale and capital intensive. TNCs affect 86 per cent of the world's land that is cultivated for export crops. Their impact on these countries can be significant since rural-based activities still represent the predominant economic activities of the majority of developing countries. It has been pointed out, for instance, that since many of the projects on indigenous land are capital intensive, only those specific skills are employed. As a result, the local community rarely benefits in terms of access to direct employment opportunities.

26. The penetration of TNCs into the agricultural sector has often had negative repercussions for local people and for national agriculture priorities. Motivated by profits, investments by TNCs move away from food crops to more lucrative commercial crops, primarily for export to the rich countries. This is changing the land utilization pattern in many developing countries.

27. An increasing number of local farmers, generally unable to compete with powerful TNCs in production and marketing, become marginalized, lose their land, labour and economic functions. The Special Rapporteur on the realization of economic, social and cultural rights, Mr. Danilo Türk, pointed out that the restructuring of land ownership resulting from increased emphasis on export agriculture has created a process whereby rural workers and small farmers have lost their land to large corporations, not only agribusiness, but those controlled by industrial and banking groups as well. It has been stated that some of the most severe disruptions in rural based and indigenous people's lives have been associated with the development of hydroelectric power projects. Vast numbers of people have been displaced, and the frequent floods that can be associated with these projects disrupt, sometimes severely, the lives of these people.

28. High-risk TNC activities are more likely to be sited on the land of weaker groups such as rural or indigenous peoples, where economic or political power to refuse such projects is limited and where lack of sufficient field officers to monitor activities and the remoteness of the areas make adequate supervision unlikely.

29. Crop specialization, which frequently occurs in the production of commercial crops for the export market, also has an impact on the type of jobs provided. The fact that seasonality is an important dimension in agriculture and plantations which influences patterns of labour demand suggests that crop specialization could induce considerable labour-market imbalances. Part-time or seasonal jobs increasingly characterize employment in this sector and working conditions tend to be poor. Due to an increasing reliance on seasonal workers and those contracted on a daily basis (generally unprotected by national legislation), a substantial number of workers are denied appropriate remuneration. Moreover, prices and export fluctuations on the world market have an unsettling impact on employment within an export-oriented commodity system, rendering jobs even more unstable.

30. The plantation sector, in particular, is characterized by very poor working conditions. According to an ILO report on the plantation sector, in a number of countries, low wages, long hours, seasonal unemployment and minimum housing and sanitation standards continue to be the rule rather than the exception. Women are disproportionately present, making up 20 to 50 per cent of the workforce depending on the commodity and the country. Many children work on plantations owned by TNCs. Migrant and contract labour is also prevalent on plantations which contribute to their present poor living standards and the difficulties workers have in trying to do something about them.

31. The shift from food crops to commercial crops can also have an adverse impact on food security and the right to adequate food and nutrition. Often, the basic nutritional needs of the host country's people are not met. Despite quantum leaps in agricultural production, the conditions of the rural masses in developing countries have worsened and in many instances children are undernourished despite the increase in agricultural growth.

32. Of particular concern is the extensive use of agrochemicals which expose farm and plantation workers to toxic substances, especially in plantations. TNCs sell 90 per cent of the worlds agrochemical products. The problems associated with the use of agrochemicals is worse in countries where conditions such as illiteracy, inadequate training and protective gear, as well as insufficient outdated controls reduce their safe use.

33. In their search for markets, TNCs export dangerous chemical products mainly from those countries where chemicals considered to be dangerous are banned. Despite an FAO code requiring that no pesticides in certain categories be exported, products subject to health and safety regulations in home countries continue to be sold in countries lacking such regulations or information on safe usage. Water pollution and food contamination resulting from the intensive use of agrochemicals such as pesticides, herbicides, fungicides and insecticides also represent a growing environmental and public health concern. The International Water Tribunal, Amsterdam, in

February 1992, condemned a large TNC banana plantation for the ecological damage caused to the Costa Rican coastal waters by massive pesticide pollution.

34. Other toxic chemicals TNCs use in their production process also cause health problems, for instance TNCs manufacture most of the world's chlorine which is used as a base for potentially harmful chemicals such as PCBs, DDT and dioxins; these chemicals can lead to birth defects as well as reproductive, developmental and neurological damage. TNC involvement in the production and use of asbestos, volatile organic compounds and radioactive waste materials can also generate health problems.

35. Human rights problems related to the production of and trade in toxic products and wastes are a growing concern of United Nations human rights bodies. TNCs are major producers of wastes. Some wastes cannot be stored away safely, and their disposal can be costly. When TNCs are not obliged to internalize costs or when polluters do not have to treat problems locally or at the source, a likely reaction is an international trade in toxic wastes and dumping in lesser developed regions. An explosive growth of international waste trade began in the mid-1980s with the introduction of stricter waste laws in Europe and the United States. TNCs found it cheaper and more convenient to transfer toxic wastes to Latin America and Africa where environmental laws were lax or absent.

B. Global strategies of TNCs: mergers, acquisitions and alliances

36. Global strategies of TNCs involve close coordination, specialization and integration of geographically dispersed activities. They involve both rationalization and increased scope for transferring production. TNCs carry out their activities and exert control over foreign productive assets through the formation of strategic alliances and a variety of non-equity arrangements, including subcontracting, franchising and licensing.

37. The global strategies adopted by TNCs are motivated by the desire to maximize profits through instantaneous increases in the market share; geographic or product diversification; to threaten a competitor or to respond to a competitor's threat; and to reduce costs through economies of scale, rationalizing overlapping production, research and marketing activities and weakening the bargaining power of workers. TNCs are also hostile to trade unions because of their potential to disrupt the production system. These forms of international expansion occur with little or no foreign direct investment (FDI). Increasing international competitiveness discourages employers from internalizing social cost. The new strategies imply significant changes in how production is organized across borders.

38. In the latter part of the 1980s, mergers, acquisitions and alliances (MAAs), rather than investment in new factories, became the predominant vehicle for FDI in the industrialized countries. The formation of alliances, as opposed to remaining independent, has rapidly increased especially in the telecommunications, automobile and semiconductor industries. A self-reinforcing character of this process is that as it gathers momentum,

enterprises which fail to pursue the same strategies become exposed to increasing risks of market share loss and take-overs from larger and more aggressive global competitors.

39. Mergers, acquisitions and strategic alliances (which generally involve rationalization between and within enterprises or reduction of workers) and the increased scope for transferring production has had an adverse effect on employment. It has been stated that stagnation or possible decrease of global employment by TNCs, despite the enormous surge in FDI in the second half of the 1980s, is partially due to these new developments.

40. As a result of these strategies, the control of foreign assets among TNCs is highly concentrated. The operations of many TNCs can be characterized as monopolistic or oligopolistic: they are usually very large firms controlled by a small number of corporations who are dominant in their fields. It has been estimated that about 1 per cent of parent TNCs own half of the FDI stock or total affiliate assets. With such control, TNCs could eliminate competition and severely harm the operations of small farmers and infant industries in the internal economy.

41. The large financial turnover of many of these TNCs relative to the economies of various developing countries gives them considerable bargaining power which has often undermined the potential economic gains to host countries. It is estimated, for instance, that in 1980, the 10 largest financial groups controlled assets worth US$ 3.8 trillion, almost four times the GDP of the 43 least developed countries, 1½ times the GDP of the 57 middle-income countries, and 22.5 per cent of the GDP of the 24 richest countries in the world. In several instances, the financial turnover of a single TNC is more than that of the host developing country. In 1993, for instance, the annual sales of one electronics firm amounted to US$ 50.4 billion which was equivalent to the combined GDP of Chile, Costa Rica and Ecuador.

42. The balance of forces among oligopolies has almost invariably proven to be unstable. It has been said that they behave as rivals rather than competitors. The enterprises concerned may argue that sacrifices by workers are necessary in order to remain competitive, thereby justifying an intensification of work effort and a downward pressure on real wages.

43. It has been stated that as opportunities for cost-saving rationalization are exploited, both MAAs and globalization in the short and medium term have had and will continue to have a negative effect on the direct employment of the enterprises concerned. The competitive stimulus that TNCs are supposed to provide to the host country's economy does not often lead to a revitalization of the host country's industry. In many instances, local competitors have to close down when the domestic market becomes relatively saturated. This happens not only because of loss of market shares to TNCs, but also because of oligopolistic arrangements (characteristic of many TNCs) that are intended to eliminate actual and potential competitors. Hence rather than increasing competitiveness in local enterprises, oligopolistic control by TNCs to a large extent replaces similar local businesses.

44. Strategies employed by some TNCs may limit the diffusion of benefits accruing from their activities. Firms may seek to maintain their competitiveness by, for instance, internalizing the market, i.e. by internally controlling and coordinating ownership-specific and location-specific advantages and other assets owned by them, rather than licensing the right to use these assets to indigenous firms located in the country of production. Franchising the conclusion of management contracts, partnerships and joint ventures are other means by which service TNCs are internalizing their advantages while, at the same time, gaining access to foreign markets.

45. Intrafirm transactions, which account for 40 per cent of world trade, give TNCs the possibility to exploit price differentials around the world and set prices as global oligopolies.

46. By manipulating intercompany payments through transfer pricing and by moving funds and goods rapidly between countries, TNCs are able to avoid taxes and repatriate a large part of their profits, thus contributing to capital flight. Transfer pricing is a process whereby prices are assigned to their internal transactions for taxation purposes, which can affect the validity or reliability of financial data. It effectively refers to overpricing of costs and underpricing of profits. Transfer pricing, widely practised by TNCs, represents a serious loss of income or tax revenue to the countries concerned. Therefore, the practice of transfer pricing enables TNCs to keep a much larger proportion of the profit than they would have under other conditions.

47. Through transfer pricing TNCs can also mislead trade unions into accepting considerably lower wage increases than that due to them or what the TNC can afford in terms of increases in effective profits. Detection in these cases is complicated by profit repatriation and because determining how TNCs allocate profits (especially those made by speculation) to different countries in which they have affiliates is difficult. However, recent initiatives by some Governments to introduce unitary taxation policies, a measure to combat transfer pricing tactics, was successfully lobbied against by TNCs. Unitary taxation is a policy under which a Government calculates a company's taxation on the bases of its global profits instead of on the bases of profits declared within the countries borders.

48. The use, by some TNCs, of expatriate personnel, especially for senior positions, allows them to control their technological assets and to prevent the diffusion of skills and know-how through labour turnover and "breakaways" (the creation of new firms by former TNC staff). The use of expatriates by TNCs varies by industry and sector, but a key determinant of the share of expatriates is the age of the investment: the newer the investment, the greater the number of expatriates. The reliance on expatriate personnel is greater for foreign affiliates in developing countries than those in developed host countries. Though the overall number of expatriates employed by TNCs is small, they account for a relatively large share of the executive staff or senior management positions in foreign affiliates. For example, in one TNC foreign affiliate in a developing country, 83 per cent of such positions were filled by expatriates from the TNCs home country. This practice limits skill acquisition and upward mobility for workers in host countries. The

contribution of TNCs to education is limited to the tertiary level, particularly business-management education. The main focus of training is on technical and managerial personnel.

49. The tendency of some TNCs to take their suppliers with them and engage them in long-term relationships poses a great difficulty for local suppliers to enter that particular market or to break into this process. It also hinders the diffusion of scientific knowledge of developed countries. The technological and managerial skills that investors generally bring with them also give them a competitive advantage over local producers. This practice may have an adverse effect on local producers who may be forced to close down their operations because of their inability to compete with these more technologically or otherwise efficient suppliers. A shift by an affiliate to reliance on imports could trigger domestic restructuring with negative indirect employment effects in industries until then related to TNCs through backward and forward linkages. Domestic suppliers will also be negatively affected by a dependence on a large import component.

50. Therefore, the type of relationship TNCs establish with suppliers will to a large extent determine whether their influence is beneficial to the host country. Increases in local purchasing by TNCs would encourage local suppliers to investigate more technologically effective ways to supply their goods. Moreover, the transfer of knowledge and advice that TNCs are likely to impart to local suppliers can be beneficial in improving the host countries' technological capabilities. Hence, increases in local purchasing by TNCs, while not significant in increasing employment, have a very important role to play in fostering the host country's technological capabilities. Such fostering is necessary since low wages cannot be relied upon indefinitely as an element of competition in world markets.

51. The possibility of splitting up the production process into segments increases the locational choice available to TNCs. Locational flexibility also increases as location is determined less by proximity to the final market or fixed resources and more by relative costs, the existence of created assets such as the availability of highly skilled labour, technology and infrastructure, and government policies designed to enhance comparative advantages (e.g. decreases in trade barriers, education and training, etc.). Both locational flexibility and the possibility of splitting up production processes into segments have greatly enhanced the ability of the management to take decisions to close or scale down operations, relocate additional investments to other plants so as to improve their competitive advantage, and/or to subcontract to other areas.

52. A United Nations report summarized as follows the factors that have contributed to TNCs acquiring considerable market power vis-à-vis Governments and enterprises in developing countries: their command over resources of various kinds - finance, management, marketing, networks and skills, technology and "know-how" generally; their ability to combine and deploy such resources across the world; the success, particularly of TNCs enjoying monopolistic positions, in generally integrating their subsidiaries and affiliates into the company as a whole rather than into the economy of the host country; the behaviour of affiliates which have tended to act in line with the strategy of the parent company rather than as autonomous enterprises.

53. The increased leverage of TNCs allows them to play nations and communities off against one another in an effort to receive the most advantageous benefit package, and generates a "downward harmonization" of labour, consumer and environmental standards. They can escape the "burden" of labour standards and labour costs by locating in countries with lower standards and lower costs. As labour costs increase smaller firms are especially likely to relocate.

54. Increased locational choice and possibilities for capital mobility enable TNCs to transfer labour-intensive stages of production from developed countries to locations where labour costs are lower and where more liberal markets exist. Job losses in a few specific industries such as electronics and textiles may be considerable in the home countries. A reliance by TNCs on subcontracting arrangements with suppliers in other countries, because of higher comparative advantages there, also displaces employment to a considerable extent.

55. However, employment drained away from industrialized countries when TNCs relocate often does not imply great employment gains in the countries where the companies relocate and expand since many of these industries become less labour intensive and subcontract to a greater extent in the host countries. The employment is therefore replicated at a lower level in the host countries. New technology and the continuing drive for higher productivity encourage TNCs even in low wage countries to build labour efficient plants that use much less humanpower than in the home country. "The emerging pattern of integrated international production may indeed be accentuating disparities between certain core activities and jobs that are dispersed throughout a firm's international production system...(creating) a growing periphery of jobs, many of which are less stable and less highly remunerated than those at the core." 1/

56. The long-run employment effects of TNCs depend critically on the role assigned to the subsidiary of the TNCs in a particular country within the global strategy. The most unfavourable case is when the subsidiary is assigned the role of rationalized manufacturer (screwdriver operation) which occurs largely in developing countries. In this case, the volume of employment is restricted by the low value added to and the high import content of production, and the limited training and skill content for workers, engineers, managers, etc. The most favourable case is when the subsidiary is a product specialist (the polar opposite of a screwdriver operation). In this case the workers' skills and the power of management initiative are great while the potential employment growth is limited only by the subsidiary's own effort.

57. It has been noted that in addition to negative effects on employment, the global strategies of TNCs also exacerbate existing regional and international inequalities by sharpening the polarization between low-wage assembly work (largely in developing countries) and high-skilled activities (likely to be carried out in industrialized countries with large markets and available skills).

C. The case of Export Processing Zones

58. Export Processing Zones (EPZ) have been defined as "a clearly delineated industrial estate which constitutes a free trade enclave in the customs and trade regime of a country, and where foreign manufacturing firms producing mainly for export benefit from a certain number of fiscal and financial incentives." 4/ Low wage levels prevailing in EPZs combined with infrastructural facilities and the financial incentives offered are said to be among the central factors accounting for the growth of FDI in these zones. Financial incentives range from tax holidays to rental subsidies, from investment allowances to special credits for employment creation, and from indirect subsidies for the purchase of domestic raw materials and semi-finished goods to training grants and special depreciation allowances on capital equipment. It has been stated that EPZs have been created "by bending all the traditional economic rules - on the need for tariff barriers, on the principle of equal access to basic infrastructural services, or on the principle of fair taxation". 5/ Such industrial enclaves tend to be screened off from their surrounding environment in order to control access of persons and products.

59. Since the products manufactured by enterprises in EPZs are to be sold primarily if not exclusively in the markets of the highly industrialized countries, they correspond to the demand, technical specifications and income levels of these markets, and bear little if any relation to the needs or the requirements of people in the host country.

60. Growth of employment in EPZs is substantial, averaging about 9 per cent a year from 1975-1984 and 14 per cent a year from 1986-1990. By the end of the 1980s there were about 4 million workers in over 200 EPZs in approximately 60 developing countries. However, indirect employment effects are weak since only a few backward and forward linkages (industries generated to supply and be supplied respectively by the firms involved) of the host country are associated with EPZs. Firms operating in these zones purchase a major part of their inputs from abroad.

61. Despite indications that growth in employment in EPZs is substantial, definite limitations exist as regards the kinds of jobs generated and their long-term sustainability. The majority of EPZs confined their FDI to a limited group of industries employing cheap labour. Employment created in EPZs are mainly relatively low-paid unskilled and semi-skilled jobs. Working conditions are often poor and hazardous to health. Heavy pollution is usually associated with EPZ operations. Workers, especially in the electronic industries, are often exposed to radiation, toxic substances and chemicals without warnings or safety equipment. On average, young women from the age of 16 make up 70 per cent to 80 per cent of employees in these zones. Young women are employed because they are typically unmarried, without family responsibility, and have little experience. Many employers view women as more pliant and less prone to claim their rights or to participate in union action. Women's wages are 20 per cent to 50 per cent lower than those of males working in the same zones. Working hours are usually 25 per cent longer than elsewhere and night shifts and overtime are also performed at a higher rate than for national companies. These conditions contribute to early burnout,

with the women leaving the company by the time they are 25 years old. The length of employment in EPZ industries tends to be relatively short - around five years. Employment generally terminates at marriage.

62. Employment in these zones tends to be unstable and offers limited job security. It has been pointed out that the focus on foreign-owned TNCs in EPZs has tended to breed a very distinct type of industrial monoculture, either of the electronics type or of the textile and clothing type. This practice increases the economic and social risks associated with the near exclusive reliance on one single export industry. Relocation, especially of the majority small- and medium-sized zones whose locational decisions are heavily influenced by cost considerations, is likely to occur with increases in labour costs. Moreover, industries in these zones are subject to fluctuations in the world market and protectionist measures in the developed countries. Given unfavourable conditions, it is likely that TNCs would relocate their factories elsewhere. Their relocation will cause a dramatic decrease in employment in these industrial sectors and render the countries involved vulnerable to the demands of the TNCs.

63. EPZs also provide poor opportunities for training and skills enhancement. The transfer of skills and technology to the host country is likely to be minimal in highly specialized EPZ affiliates where the majority of the young women workers are engaged in low-skilled jobs with little exposure to higher technologies. Experience of labour requirements in EPZs shows that higher productivity is made possible through a high turnover rate of workers. The transfer of skills and technology by TNCs is also affected by their heavy reliance on imported inputs for production in these zones. It has been stated that this import orientation, or anti-local sourcing orientation, is built into the EPZ system of privileges, unencumbered as they are by custom duties, import restrictions, foreign exchange regulations and incentives to purchase their inputs from local sources rather than to import them.

64. It is primarily in the EPZs that workers' rights to join a national union for collective bargaining and/or to strike are largely restricted by Governments, based on the belief that unions will discourage foreign direct investment in the industry. This is particularly the case in the electronics industry. In some instances these restrictions were introduced in response to conditions laid down by TNCs as a prerequisite for investment; in some countries, due to pressure from certain TNCs from the electronics industry, industry-wide trade union activities in the industry were prohibited and only in-house unions were allowed. In other instances trade unions have been banned altogether. In still other cases, legislation governing strikes, lock-outs and conciliation are not to be applied for 10 years after the commencement of operations in EPZs.

65. Difficulties in obtaining union recognition and inadequacy of law enforcement in certain zones are other reasons why workers' rights are undermined in some EPZs. In one country, despite the fact that the law prohibits discrimination, enterprises in the EPZs did not hire persons belonging to unions. A further impediment to organizing workers is the fact that EPZs are typically fenced in for security or other reasons and unauthorized personnel are normally prevented from entering the zones.

66. Activities of TNCs in these zones also have an adverse impact on local producers in the industry and on workers employed by them in the national economy. Generous concessions extended to foreign investors place local businesses which do not benefit from these concessions at a disadvantage, and contribute to further increasing social and economic disparities.

67. A newly emerging form of agricultural production that, according to ILO, in some instances represents those found in EPZs involves the renting of vast tracts of land, especially by TNCs, for export production and "non-traditional crops", essentially fruit, vegetables and flowers, especially for the European market. The investors are closely linked to large food processing firms. Compared to traditional plantation systems, such investments involve little fixed capital and are highly flexible. The workers are mostly casual day workers with little protection by labour legislation. Moreover, many local farmers who are unable to compete with TNCs become marginalized and lose their land as well as their economic activities.

D. Changes in the labour market structure and in industrial relations

68. Changes in the labour market structure and in industrial relations have contributed to reducing the bargaining position of workers and their organizations in a number of ways. New forms of production have involved changes in the composition of the labour force. More direct methods are also used by TNCs aimed at reducing the collective bargaining position of workers. These include a non-union preference and limitations on recognition of trade unions, the establishment of a company-based industrial relations structure/in-house unions, a hierarchical and upward consultation process and a reluctance to disclose information on employment and investment plans.

1. Subcontracting/outsourcing

69. Many TNCs, particularly in export-oriented, light manufacturing industries (such as textiles, garments, toys, footwear and sporting goods), no longer own and operate the plants in which some components of their products are made. As trade barriers are removed, communications technologies improve and as international competition intensifies, they subcontract out for such goods and then act as global distributors. As pointed out earlier the possibilities for workers to acquire skills and job mobility in developing countries is restricted by the tendency of TNCs to recruit expatriate personnel and to take their suppliers with them. Moreover, the fact that subsidiaries in developing countries are usually assigned the role of "rationalized manufacturers" reduces the possibilities for training workers.

70. They have, thus, begun to reduce their reliance on a permanent labour force, engaging instead a small, highly specialized, skilled core labour force surrounded by a periphery of temporary workers. Large numbers are engaged through subcontracting or outsourcing arrangements, especially for labour-intensive operations in both the host and home countries. The small corporate core usually consists of headquarters, management and staff, and stands at the centre of an independent network of firms of subcontractors who in turn engage their own subcontractors. However, "TNCs remain at the top of

these subcontracting pyramids, provide the majority of work orders such factories receive and, therefore, possess significant influence over their operations." 6/

71. This method of work of TNCs has contributed to sharply increasing informal employment in many developing countries, offering low-wage, non-permanent jobs. The quality of jobs provided through such outsourcing arrangements in developing countries has usually not been up to the standard of formal sector employment. The conditions of work and wages deteriorate as one moves from the centre to the periphery of the network. Of special concern are the substandard working conditions of small, formally independent producers based in developing countries who participate as subcontractors in international inter-firm arrangements, ultimately organized and driven by producers, buyers or distributers from developed countries.

72. Women and vulnerable groups, such as migrants, make up a large proportion of the informal sector, which is usually at the very bottom of the subcontracting chain of TNCs, and where exploitation and discrimination are the most severe. They are usually paid on the basis of piecework rather than days worked, and are not protected by labour legislation.

73. The practice of subcontracting also substantially reduces the bargaining power of trade unions by creating a division between the core workforce (those directly employed by TNCs) and the periphery of workers employed in independent small- and medium-sized subcontracting firms, especially when these are located abroad. Moreover, widely dispersed and isolated workers make effective trade union operations very difficult. The ability of trade unions to use their organizational strength to exert influence in other areas is thus also reduced.

74. In agriculture, TNCs increasingly engage in contractual arrangements with small local farmers to produce certain export crops for sale to the TNC. It is especially the large TNCs that are at the forefront of expanding this form of production. In these arrangements, the TNCs determine the price, specify the type of crop and conditions under which it is to be grown, the conditions of production, the marketing of the agricultural commodity, the quantity and the period at which it can be sold. The agricultural inputs, credit and technical support are provided by the TNC.

75. Through such arrangements, TNCs reduce their direct involvement in agricultural production and transfer the risks entailed in agricultural production onto the local producer who effectively becomes a labourer on his own or rented land. The firm can, for instance, refuse to purchase the product when market demand is low. In such situations, they often use quality controls to reject large amounts of the output, the cost of which the local farmer has to bear. Reducing their direct involvement in agricultural production also enables TNCs to concentrate on value-added activities such as processing these products. Local agriculture, peasants and labourers are, thus, not only made to bear the major investment costs and risks of the agricultural enterprise, but are also excluded from most of the benefits of agribusiness and even that accruing from much of their own land.

76. It has been pointed out that the problem of precarious forms of wage labour, usually associated with subcontracting, is, in essence, one of exclusion from decent jobs, as higher and more remunerative reaches of the labour market depend on access to secondary education at a minimum, as well as on networks of contacts, and strong patterns of labour market segmentation emerge. Although not all non-wage employment reflects exclusion, much self-employment is in practice the result of exclusion from wage labour. Where it is competitive with formal sector production, the "self-employed" may be used as low-cost producers of intermediate goods by larger enterprises, and so are in reality disguised and unprotected wage workers. An ILO paper pointed out that the underlying issue here is a dualization process: on the one side are the "bad" jobs with easier access but where poverty is concentrated, and on the other side the "good" jobs with restricted access and which provide a degree of security and acceptable conditions. This implies that there are different levels of exclusion; it is therefore possible to be included in the labour market and at the same time excluded from the "good" jobs. Labour market segmentation tends to be built around readily identified groups (notably on the basis of gender, race and nationality) and so exclusion from livelihood becomes associated with other forms of social exclusion.

2. "Best practice" or lean production method

77. There is a tendency among TNCs to shift from the domain of collective industrial relations to human resource management with a focus on individual core employees/group of employees. The "best practice" or lean production method which is increasingly being adopted by TNCs represents such an organizational concept.

78. The lean production method implies a more closed internal labour market with higher standards and levels of job security for core workers but a sharper stratification between core and periphery workers, with an increasing tendency to marginalize or exclude older, less skilled or otherwise less attractive workers. On the one hand, favourable compensation packages to core workers largely serve as an economic incentive to dissuade them from joining trade unions while, on the other hand, it becomes more difficult to organize the peripheral workforce. Effective trade union activity is, therefore, undermined by dividing core and peripheral workers. While this method ensures that core workers benefit, the peripheral workforce faces job insecurity and decreases in income, contributing to growing socio-economic disparities worldwide.

3. Non-union preference and limitations on recognition of trade unions

79. The keen competition among Governments to attract FDI increases the bargaining power of TNCs which may be used to dictate concessions, especially with regard to social and labour standards. Thus, not only is an erosion in the autonomy of national social and labour markets most probable, but a downward pressure on social and labour standards in both home and host countries is also likely to occur.

80. While factors such as high growth rates and expanding markets largely influence FDI decisions, TNCs also tend to have a non-union preference. Foreign affiliates tend to be less unionized in the finance, transport,

communications and public utilities sectors. More recently, smaller TNCs in particular do not always respect the right of employees to be represented and in specific instances discourage the organizing activities of employees. There has been a trend towards the establishment of non-union plants among smaller and average-sized TNCs in some developed countries.

81. As opposed to simply accepting unionization, TNCs in many instances may limit the number of recognized unions. In order to avoid dealing with multi-union representatives, a number of TNCs have displayed a preference for dealing with one rather than a number of unions; this can result in what has been described as "beauty contests" among unions. This, in turn, serves to erode the bargaining power of trade unions.

82. Although large TNCs have a better record in recognizing unions in collective agreements, and a few even set standards higher than their local counterparts, a number of large TNCs do have a "non-union approach". Generally, workers in larger establishments are given favourable compensation packages which could serve as an incentive to dissuade them from joining trade unions.

4. Company-based industrial relations structure/in-house unions

83. The company-based industrial relations structure or in-house unions are used mainly by TNCs in Europe and are associated with complex integrated strategies prevalent in TNC activities today. This practice falls outside the traditional industrial-based approach of collective bargaining. In-house unions, which are essentially staff associations based in the individual workplace and largely controlled by management, represent a divided and powerless organization permitted only to handle individual grievances. Despite their limited status, however, few firms allow even this form of unionization.

5. Hierarchical or upward consultation process

84. The bargaining power of workers and effective negotiation between managers of TNC affiliates and employees are also being reduced as key decisions affecting employment and productivity are increasingly being made at the parent company level of TNCs. Considerable decentralization of the labour relations function tends to be coupled with expansive provisions for upward consultation process, at least concerning a number of issues. These provisions can lead to management structures that are complex, broad-based and, at the same time, hierarchical. In comparison with the domestic competitors, personnel managers in foreign affiliates are more likely to get advice from a higher management tier with responsibility for labour relations matters.

85. This hierarchical or upward consultation process is likely to create a protracted decision-making process and cause problems for unions in identifying their effective or authorized decision makers or bargaining counterparts within the TNC. This factor also contributes to difficulties in acquiring timely and accurate information, necessary for balanced and meaningful negotiations on matters of interest to labour. Without decentralization of decision-making or, alternately, without greater or direct

access of trade unions to high-level decision-making, the bargaining process favours TNCs and is unequal and unfair to trade unions. The current set up may be employed by affiliates to distance themselves from responsibilities in the labour relations or negotiations sphere.

86. While the management of parent companies determines the ultimate bargaining terms, they are usually less willing to accept responsibility in the event of serious mishaps at their affiliates. The lack of a clear definition of who is responsible shields TNCs from being held accountable in instances of misfortunes or accidents at work.

6. Lack of transparency

87. Effective trade union decision-making is also limited by the reluctance of TNCs to disclose information on employment and investment plans. TNCs prefer to disclose information on financial and operational data rather than on employment and investment plans. According to the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (para. 54), TNCs should provide workers' representatives with information required for meaningful negotiations and to enable them to obtain a true and fair view of the performance of the entity or enterprise as a whole. Information should be timely and reliable. Also, a reasonable notice of possible changes should be given and accounting standards used by TNCs should be harmonized to improve transparency, quality and comparability of financial information. Such information is considered necessary to enable labour to obtain a true and fair picture of the performance of the entity or enterprise as a whole.

88. Even in instances where extensive consultation with labour representatives is undertaken, this information is normally provided only on a voluntary basis. In some cases, TNCs prefer to use consultation committees, rather than trade unions, to convey information to workers, but the scope of consultation may be rather narrow. Effective trade union decision-making is, thus, made difficult by the absence of reliable information.

II. MAIN HUMAN RIGHTS ISSUES

89. The activities and methods of work of TNCs have implications for the effective enjoyment of a number of human rights. These include the right of peoples to self-determination and to permanent sovereignty over their natural wealth and resources; the right to development; the right of everyone to a standard of living adequate for the health and well-being of himself and his family and to the continuous improvement of living conditions; the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the right to full and productive employment; the right of everyone to the enjoyment of just and favourable conditions of work; the right to form and join trade unions, the right to strike and the right to bargain collectively; the right of everyone to social security; the right of everyone to enjoy the benefits of scientific progress and its applications; and the right of everyone to a social and international order. The practices also affect the rights of certain groups and peoples, including women, children, migrant workers and indigenous peoples.

90. The Declaration on the Right to Development defines development as "a comprehensive economic, social, cultural and political process which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom". It is both a universal right, due to every human being and to all peoples, as well a multidimensional global right where the economic, social, civil, cultural and political aspects are interdependent and complementary. Consequently, the approach adopted should not be partial and fragmented or implemented in a manner that is selective and hierarchical. The progress sought is not just economic and financial efficiency and an improvement in the main macroeconomic indicators, but one that can be measured in terms of social justice, equality, well-being and respect for the fundamental dignity of all individuals, groups and peoples.

91. TNCs, however, tend to have a narrow conception of development in which their activities and methods of work are oriented towards maximizing profit rather than promoting equality and improving human well-being. Their investment priorities and working methods, including production techniques, reflect this narrow economic orientation. As has been stated by the Secretary-General elsewhere TNCs are not usually attracted towards the poorest nations. In their search for maximum profits, these firms show a marked preference for a limited number of developing countries with high income levels, a convenient economic environment - including tax incentives, cheap labour and easy access to natural resources - and apparent political stability. The location of manufacturing subsidiaries and the concentration of investment in certain developing countries reflect past colonial or semi-colonial relationships. Thus, the investment and settlement policies of TNCs tend to consolidate inequality between countries and to perpetuate structures of trade dependence.

92. Since TNCs tend to produce for higher income groups, primarily based in developed countries, their products correspond to the demand, technical specifications and income levels of these markets, and bear little if any relation to the needs or the requirements of people in the host country. It has been stated that the prevalent technology reflects the existing pattern of income distribution and caters to the preferences of the richer members of the international society.

93. Their activities also entail a transfer of production and consumption patterns that reflect a particular value orientation that may not be relevant to the specific conditions and needs of especially developing countries. Relationships between TNCs and host countries "have often involved patterns of growth and industrialization that cause the benefits of investment and associated activity to be distributed inequitably and that limit the ability of developing countries to pursue self-reliant development". 7/

94. Hence, despite the fact that TNCs are important agents of economic development, the benefits resulting from their activities in terms of consumer goods and services, financial capital, technology and skills are unequally distributed, benefiting only those with the purchasing power. The widespread practice of transfer pricing, declining international markets for developing country exports of primary commodities and manufactured goods, together with

the greater volatility of financial markets, significantly reduces the benefits of TNC activities to the host developing country. High profits accruing from investment in the financial sector do not necessarily benefit the country concerned as "profit repatriation may leave little capital for productive investment in developing countries". 8/ These, in turn, further deprive these countries of resources necessary for the realization of economic, social and cultural rights and the right to development. The transfer of control of resources located in developing countries to interests in the developed countries has been identified as an obstacle to the realization of the right to development.

95. It has been pointed out that while scientific and technological development provide ever-increasing opportunities to better the conditions of life of peoples and nations, in a number of instances they can give rise to social problems, as well as threaten the human rights and fundamental freedoms of the individual. It was underlined that science and technology should be subordinated not to profit aims but to the needs of society. Only when democracy is also extended to the economy will science and technology play a genuine social role. The Secretary-General has stated elsewhere that the management of the world's economic future can no longer be left to the law of profit.

96. The realization of the right to development requires that the objective of development must be determined by the people themselves and the benefits fairly distributed. The nature of what constitutes "development" was underlined by the Working Group on the Right to Development: "Development cannot be seen as an imported phenomenon. ... The implementation of the right to development can be only the result of national policy and strategy which necessarily take into consideration the specific context of each country while acknowledging economic realities. There is no ready-made model which can be applied universally by all States. ... It can be only the result of a long and laborious process which must develop according to the specific conditions inherent to each country ..." 9/

97. It is widely recognized that States have the primary responsibility to promote the economic, social and cultural development of their people, to choose their means and goals of development, to fully mobilize and use their resources, to implement progressive economic and social reforms and to ensure the full participation of their people in the process and benefits of development. The right of peoples to self-determination involves the right of all peoples freely to determine, without external interference, their political status and to pursue their economic, social and cultural development. As has been pointed out by the Secretary-General, "In pursuit of their economic interests, TNCs may not always respect the right to self-determination, conceived as permanent sovereignty over natural wealth and resources as defined, notably, in article 1, paragraph 2, common to both International Covenants on Human Rights as well as in General Assembly resolution 1803 (XVII) of 14 December 1962. In particular, TNCs might be tempted to oppose the application of international standards on the nationalization of assets 'on grounds or reasons of public utility, security or the national interest', as these enterprises might not easily recognize public necessity as 'overriding purely individual or private interest, both domestic and foreign'". 10/

98. Following are some of the principles set forth in international instruments and resolutions of the United Nations which are of particular relevance for TNCs:

(a) International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights. Common article 1(2): "All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic cooperation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.";

(b) General Assembly resolution 1803 (XVII) of 14 December 1962, "Permanent sovereignty over natural resources".

(i) Eighth preambular paragraph: "... the provision of economic and technical assistance, loans and increased foreign investment must not be subject to conditions which conflict with the interests of the recipient State.";

(ii) Paragraph 2: "The exploration, development and disposition of [natural] resources, as well as the import of the foreign capital required for these purposes, should be in conformity with the rules and conditions which the peoples and nations freely consider to be necessary or desirable with regard to the authorization, restriction or prohibition of such activities.";

(iii) Paragraph 3: "In cases where authorization is granted, the capital imported and the earnings on that capital shall be governed by the terms thereof, by the national legislation in force, and by international law. The profits derived must be shared in the proportions freely agreed upon, in each case, between the investors and the recipient State, due care being taken to ensure that there is no impairment, for any reason, of that State's sovereignty over its natural wealth and resources.";

(c) General Assembly resolution 3281 (XXIX) of 12 December 1974, "Charter of Economic Rights and Duties of States".

(i) Article 2(2)(a): "Each State has the right to regulate and exercise authority over foreign investment within its national jurisdiction in accordance with its laws and regulations and in conformity with its national objectives and priorities. No State shall be compelled to grant preferential treatment to foreign investment.";

(ii) Article 2(2)(b): "Each State has the right to regulate and supervise the activities of transnational corporations within its national jurisdiction and take measures to ensure that such activities comply with its laws, rules and regulations and conform with its economic and social policies. Transnational corporations shall not intervene in the

internal affairs of a host State. Every State should, with full regard for its sovereign rights, cooperate with other States in the exercise of the right set forth in this subparagraph.";

(d) General Assembly resolution 2542 (XXIV) of 11 December 1969, "Declaration on Social Progress and Development".

(i) Article 12(c): "Social progress and development shall further aim at achieving ... the elimination of all forms of foreign economic exploitation, particularly that practised by international monopolies, in order to enable the people of every country to enjoy in full the benefits of their national resources."

99. However, the emergence of an integrated international production system, increased locational mobility of TNCs and their monopolistic and oligopolistic tendencies have increased the bargaining power of TNCs and have been associated with a loss of decision-making capacity by States, especially in developing countries. Increasing pressures to compete internationally for capital, markets and labour contribute to reducing the margin of manoeuvre available to States. Hence, "while it is inherent in the right to exercise sovereignty that a State can control the ownership and use of its natural resources and that it is entitled to a fair share of the benefits derived from their exploitation by means of foreign capital, Governments of developing countries are not always able to assert their rights fully because of their relatively weak bargaining position in dealing with foreign investors." 11/

100. While this process is occurring to different degrees in different regions according to their position on the international scene, in general "the economic policies and situations of more industrialized countries are having increasingly intense economic effects on less industrialized countries." 12/ "Closing manufacturing branches of transnational corporations, refusing to establish subsidiaries, stopping the production or purchase of domestic goods, or merely threatening such measures may have a powerful impact on the Government of a developing nation. Equally effective may be the withholding or withdrawal of financial assistance." These practices may conflict with the promotion of human rights. 13/

101. The liberalization process can reduce the capacity of national or local government to create the conditions necessary for the realization of economic, social and cultural rights. It has been pointed out that "when measures designed to stimulate the private sector are put into place, what often occurs is the de facto relinquishment of what were previously State responsibilities." 14/ The same report underlined that the "'free market'" has never had the capacity or capability of creating conditions wherein the economic, social and cultural rights of all citizens were met and fully realized." 15/ In this connection, the Working Group on the Right to Development also underlined that the State cannot abandon its responsibility and submit to market forces.

102. The process has led, in many instances, to a lowering of labour, environmental and other human rights standards. A "regulatory deficit" is

created as national legislation regulating TNC operations is weakened and the bargaining power of TNCs is strengthened, causing a downward harmonization of various standards with adverse effects on the enjoyment of human rights. Moreover, it has been stated that "TNCs consciously undermine the ability of governments to promote the welfare of poorer and less powerful citizens and groups in society through their direct lobbying efforts for few national investment restrictions; less stringent international regulations; lower environmental, labour and consumer standards; and the abolition of unitary tax policies. Additionally, by playing governments off against one another in efforts to receive the most advantageous investment package, TNCs intentionally weaken the capacity of governments to promote social welfare." 16/

103. An ILO discussion paper pointed out that the retreat of the State, the global restructuring of production systems to adapt to a more market and externally oriented economy and, in general, the increasing internationalization of economic activities have generated new patterns of inclusion and exclusion. These affect entire nations, and so contribute in important ways to global inequality. TNCs are one of the agents of such exclusion. At the international level, this includes exclusion from international commodity markets on acceptable terms; from high-wage labour markets; from the benefits of TNC operations; from security; from global resources. They also affect the structure of exclusion within nations, as when the demands of the international trading system lead investment, employment and wealth to be concentrated in small parts of the economy, or when élites participate in an international consumer society from which the bulk of the population is excluded. In general, they affect access to productive resources, such as land, capital and technology, access to income, access to markets, access to goods and services, access to social security as well as to the benefits of growth in general.

Employment

104. With regard to the importance of the right to work, it has been stated that "the rights which regulate people's working and living conditions are those which directly affect the development of an individual's personality; for it is in the process of work that a human being develops his essential characteristics. And this personality-forming function of labour is determined by the social quality contained in labour. Therefore, special attention needs to be paid to developing further the right to work, a demand which was taken up in article 23 of the Universal Declaration of Human Rights in 1948 and in article 6 of the International Covenant on Economic, Social and Cultural Rights." 17/

105. Moreover, for most households and especially for the poor, labour earnings are the major source of income and many aspects of social protection are linked with regular wage employment. Employment provides social legitimacy as well as access to income. Exclusions from the labour market, from productive asset, from the capacity to work productively and gain an adequate income are the issues around which other exclusions are structured.

106. It is estimated that the direct and indirect employment created by these companies together amount to only approximately 5 per cent of the world's

workforce, which is a very small proportion of the world's workforce. This figure is even less significant when compared to the assets such enterprises control. It has been pointed out, however, that this figure does not accurately reflect their actual impact on employment levels. Direct employment by TNCs will sometimes displace jobs from national firms, although the extent of the effect of such displacement will vary across industries and countries.

107. Mergers, acquisitions and strategic alliances (which generally involve rationalization between and within enterprises or reduction of workers) and the increased scope for transferring production has greatly enhanced the ability of management to take decisions to close or scale down operations, relocate additional investments to other plants so as to improve their competitive advantage, and/or to subcontract to other areas, with adverse effects on the enjoyment of the right of everyone to full and productive employment and related human rights.

108. The greater mobility of TNCs enables them to escape the "burden" of labour standards by locating in countries with lower standards. Also, as labour costs increase smaller firms in particular are likely to relocate. This possibility, together with the downward movement of labour standards in many countries resulting from the worldwide competition for FDI, has very negative implications for the rights of workers.

109. The shift in investment priorities, the use of capital-intensive production techniques, the segmentation of production processes, greater locational flexibility, the decreasing reliance on a permanent labour force, along with the practice of subcontracting, have had adverse effects on employment, both in terms of quantity and quality of jobs available. Employment opportunities are open mainly to those with specific skills; opportunities for unskilled workers have been reduced. These practices have contributed to increasing inequalities between a small core of skilled workers and a growing number of unskilled or semi-skilled workers within the labour market. As a result, the local communities, especially in developing countries, rarely benefit in terms of access to direct employment opportunities.

110. While skilled work tends to be better paid and more stable, unskilled or semi-skilled work is low paid and less stable. The peripheral, temporary workforce is usually engaged under short-term or part-time contracts or are home-based workers, with large numbers engaged through subcontractors. It has been stated that although TNCs generally treat their workers better than do local firms and offer superior wages in absolute terms, they sometimes pay a lower wage relative to workers' productivity. Employees of TNCs share less in the profits of their employing enterprise. Thus, while TNCs may pay higher wages than do local firms, they maintain a less equitable distribution of resources. It has been argued, therefore, than an appropriate and responsible wage level requires not only an examination of absolute figures, but also wage/profit ratios. The ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (para. 34) provides that the wages, benefits and conditions of work should, inter alia, be related to the economic position of the enterprise. Moreover, employees of TNCs in developing countries, especially in EPZs and those engaged through

subcontracting arrangements, often work very long hours under hazardous conditions and receive little pay and no compensation for overtime. Workers, especially in the electronic industries, are often exposed to radiation, toxic substances and chemicals without warning or safety equipment.

111. The ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy requires that TNCs should not provide less favourable industrial conditions than those of comparable employers in the host country (para. 33). They are required to maintain the highest standards of safety and health, bearing in mind their relevant experience within the enterprise as a whole, including any knowledge of special hazards (para. 37). However, the decoupling of manufacturing and distribution through subcontracting arrangements has prompted TNCs to assert that they are not responsible for working conditions or wage levels in factories that manufacture their products. These atypical or precarious forms of employment place workers in a disadvantageous position because employment relations are not governed by the standards concerning wages, working conditions and social security that apply to persons in full-time employment.

112. The Secretary-General has stated elsewhere concerning the impact of activities of TNCs on the right to development that "with a view to keeping their production costs to a minimum, transnational corporations could be tempted to discourage the raising of salaries beyond certain levels as well as the development of social security schemes with employers' contributions." 18/ Moreover, to avoid cost increases, "plans to improve work safety and to combat pollution could be viewed with some disfavour by Transnational Corporations." 19/

113. These practices of TNCs have also exacerbated existing regional and international inequalities by sharpening the polarization between low-wage assembly work (largely in developing countries) and high-skilled activities (likely to be carried out in industrialized countries where market size and availability of skills already exist.

114. They also reduce the possibility of States to pursue policies to achieve full and productive employment (art. 6 (2), ICESCR) as well as to undertake measures to ensure, inter alia, equality of opportunity for all in their access to employment and the fair distribution of income (art. 8, Declaration on the Right to Development).

115. Such practices also have an adverse impact on a number of human rights including, in particular, the right of everyone to participate in, contribute to, and enjoy economic, social, cultural and political development (art. 1 (1), Declaration on the Right to Development); the right of everyone to full and productive employment (ILO Constitution; the right to work, which includes the right of everyone to the opportunity to gain his living by work (art. 23 (1), Universal Declaration of Human Rights and art. 6 (1), ICESCR); the right of everyone to social security, including social insurance (art. 9, ICESCR); the right to an adequate standard of living (art. 25 (1), Universal Declaration of Human Rights and art. 11, ICESCR); the right of everyone to the enjoyment of just and favourable conditions of work (art. 23 (3), Universal Declaration of Human Rights and art. 7, ICESCR); the right to safe and healthy working conditions (art. 7 (b), ICESCR); the right of everyone to the

enjoyment of the highest attainable standard of physical and mental health, which requires that steps be taken, inter alia, to improve all aspects of environmental and industrial hygiene (art. 12 (1) and (2) (b), ICESCR).

Disadvantaged groups

116. Labour market segmentation tends to be built around readily identified groups (notably on the basis of gender, race and nationality). Women and migrants are disproportionately present in low-wage, unskilled work or semi-skilled work contributing to their poor living standards. Many children are said to work for TNCs in the plantation sector.

117. Women and migrants make up a large proportion of the informal sector, which is usually at the very bottom of the subcontracting chain of TNCs, and where exploitation and discrimination are the most severe. They are usually paid on the basis of piece-work rather than days worked, and are not protected by labour legislation.

118. Women's wages are generally lower than those for males for similar work. Working hours are usually longer than elsewhere and night shifts and overtime are also higher than that for national companies.

119. Disadvantaged and vulnerable groups are also affected by the use of agrochemicals as illiteracy, the lack of adequate training and protective gear, as well as insufficient, outdated controls, reduce their safe use. This affects, in particular, the right of everyone to safe and healthy working conditions (art. 7 (b), ICESCR).

120. The lack of participation and consultation by indigenous peoples in many TNC projects on their territories affect the rights of indigenous peoples to control their own development and to manage their own natural resources (arts. 7 and 15, ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries).

121. Other rights affected by the practices of TNCs, and of particular relevance to such groups include: the right of everyone to equal pay for equal work (art. 23 (2), Universal Declaration of Human Rights); the right of everyone to the enjoyment of just and favourable conditions of work, including fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work (art. 7, ICESCR); the rights contained in ILO Convention No. 111 concerning Discrimination in Respect of Employment and Occupation; ILO Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention on the Elimination of All Forms of Discrimination against Women; International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; Convention on the Rights of the Child; the right of every human person and all peoples to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized (art. 1, Declaration on the Right to Development); the requirement that TNCs should

not provide less favourable industrial conditions than those of comparable employees in the host country (ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy).

Diffusion of skills and technology

122. The practice of TNCs to internally control and coordinate assets owned by them, rather than licensing the right to use these assets to indigenous firms, and the tendency to draw their suppliers abroad with them and to use expatriate personnel limit skill acquisition and upward mobility for workers in host countries. Especially in developing countries, employees of TNCs and those engaged through subcontracting arrangements have few opportunities for training and advancement.

123. In this connection, a report of the Secretary-General pointed out that various factors may mitigate or cancel the positive economic effects that TNCs are expected to bring in terms of the right to development. "For instance, restrictive practices as regards technology transfer, lack of in-service training and insufficient career incentives for local staff may render difficult the acquisition of skills and the creation of a national pool of research workers and industrial cadres." 20/

124. In addition to their impact on the right to development, these practices can have adverse effects on the following specific rights: the right of everyone to take part in cultural life and to enjoy the benefits of scientific progress and its applications (art. 15 (1) (a) and (b), ICESCR); the right of everyone to an adequate standard of living and to the continuous improvement of living conditions (art. 11, ICESCR); the right of everyone to the opportunity to gain his living by work, the realization of which requires that steps taken include technical and vocational guidance and training programmes, policies and techniques (art. 6, ICESCR).

Collective bargaining

125. The rights of workers, in particular their ability to bargain collectively, are eroded in a number of ways: unemployment, or the threat of unemployment, as a result of shrinking job markets, increasing possibilities for TNCs to relocate and reductions, or the threat of reductions, in future investments; divisions created among workers as a result of changes in the composition of the labour force; the reluctance of TNCs to disclose information and the more direct anti-union practices of TNCs.

126. The ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy and the OECD Guidelines on Multilateral Enterprises both expressly preclude threats of relocation. The ILO Declaration specifically forbids the threat of actions such as the transfer of work from affiliates in foreign countries or the transfer of part or all of their operations to other locations (para. 52). However, as labour costs or the "burden" of labour standards increase, smaller firms, in particular, are likely to relocate.

127. The practice of subcontracting/outsourcing, together with economic incentives to core workers to dissuade them from joining trade unions,

substantially reduces the bargaining power of trade unions. It creates a division between the core workforce and the periphery of workers, especially when these are located abroad. Casual, temporary or part-time workers are usually non-unionized and are, therefore, in a weaker bargaining position as opposed to technical and professional employees who may work under similar contractual arrangements. Morecver, widely dispersed and isolated workers make effective trade union operations very difficult.

128. The collective bargaining power of trade unions is also weakened by more direct methods employed by TNCs to discourage trade union activities. The considerable decentralization of the labour relations function and non-union preference combined with expansive provisions for an upward consultation process and a reluctance to disclose information on employment and investment plans have all contributed to weakening the bargaining power of workers while, at the same time, strengthening that of TNCs. The ILO Tripartite Declaration concerning Multinational Enterprises and Social Policy (para. 54) requires TNCs to disclose information considered vital for undertaking meaningful negotiations. Such practices go against the core purpose of trade unions, i.e. to act as bargaining agents similar in strength to employers, and undermine the very fundamental right of association.

129. With regard to agrarian reform and land-related measures, the Secretary-General in a previous report stated that these "must be undertaken democratically and in such a way that both the resources and consciousness of the people are mobilized. In particular, land reform measures should be accompanied by respect for the right to freedom of association and should provide for full peasant participation in the discussion and implementation of land-related policies.

130. The rights of workers to organize and bargain collectively is also affected when Governments, in their competition for FDI, exclude the application of certain labour standards such as trade union recognition, freedom of association and the right to strike. The ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy specifically states that special investment promotion incentives granted by host countries should not include any limitation of the workers' freedom of association or the right to organize and bargain collectively (para. 45).

131. The specific rights that may be adversely affected by the above practices include: the right of everyone to form and to join the trade union of his choice (art. 23 (4), Universal Declaration of Human Rights and art. 8 (1) (a), ICESCR); the right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade union organizations (art. 8 (1) (b), ICESCR); the right of trade unions to function freely (art. 8 (1) (c), ICESCR); the right to strike (art. 8 (1) (d), ICESCR); ILO Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize; ILO Convention No. 97 concerning the Right to Organize and Collective Bargaining; ILO Convention No. 141 concerning Organizations of Rural Workers and Their Role in Economic and Social Development; access of labour to company representatives who control decision-making of negotiations (para. 51, ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy; the right

of every human person and all peoples to participate in, contribute to, and enjoy economic, social, cultural and political development in which all human rights and fundamental freedoms can be fully realized (art. 1, Declaration on the Right to Development).

Local business and small farmers

132. The entry of TNCs has an adverse effect on small farmers and local industries, including their workers, who are faced with financial difficulties due to market fluctuations and competition. They are generally unable to compete with powerful TNCs that benefit from strong economies of scale, large amounts of capital and technology and have access to global markets. The technological and managerial skills that investors generally bring with them also give them a competitive advantage over local producers. While generous incentives are extended to foreign investors, small producers suffer under considerable constraints, including the disincentive of an unfair tax burden.

133. Moreover, a shift by affiliates to a reliance on imported inputs could trigger domestic restructuring with negative indirect employment effects in industries until then related to TNCs through backward and forward linkages.

134. It has been pointed that the restructuring of land ownership resulting from increased emphasis on export agriculture has created a process whereby rural workers and small farmers have lost their land to large corporations, agribusiness and industrial and banking groups. The shift from food crops to commercial crops can also have an adverse impact on food security and the right to adequate food and nutrition.

135. Such practices affect, in particular, the principle of equality of opportunity and access to productive resources (art. 8, Declaration on the Right to Development); the right of everyone to participate in, contribute to, and enjoy economic, social, cultural and political development (art. 1, Declaration on the Right to Development); the right to work, including the right of everyone to the opportunity to gain his living by work (art. 6, ICESCR); the right of everyone to an adequate standard of living for himself and his family, including adequate food, and to the continuous improvement of living conditions (art. 11 (1), ICESCR); the right of everyone to be free from hunger (art. 11 (2), ICESCR).

Environment and health

136. Human rights problems related to the production of and trade in toxic products and wastes is also a growing concern of United Nations human rights bodies. Water pollution and food contamination resulting from the intensive use of agrochemicals represent a growing environmental and public health concern. It has been stated that excessive waste creation and inefficient waste disposal pose a threat to health, to the enjoyment of the amenities of life and to the continued supply of essential raw materials. The Commission on Human Rights has expressed concern about the illicit movement and dumping of toxic and dangerous products and wastes which constitutes a serious threat to the human rights to life and health (resolution 1995/81).

137. It has also been pointed out that various activities of TNCs also pose a threat to world food supplies which also entails, in some measure, an impairment of humanity's more general enjoyment of the amenities of life. Adverse effects of such activities include erosion and other forms of soil deterioration; water pollution; harmful secondary effects of pesticides; and the increased danger of oil pollution of the seashore due to offshore oil drilling and the use of larger oil tankers, which do great damage in case of shipwreck. There is also the penetration of poisonous substances into food chains.

138. These affect, in particular, the right to life (art. 3, Universal Declaration of Human Rights); the right of everyone to a standard of living adequate for the health and well-being of himself and his family (art. 25 (1), Universal Declaration of Human Rights and art. 11, ICESCR); the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (art. 12 (1), ICESCR).

International cooperation

139. Articles 55 and 56 of the Charter of the United Nations call for international cooperation to promote (a) higher standards of living, full employment, and conditions of economic and social progress and development; (b) solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and (c) universal respect for, and observance of, human rights and fundamental freedoms without distinction as to race, sex, language, or religion.

140. Both the International Covenant on Economic, Social and Cultural Rights and the Declaration on the Right to Development reaffirm the need for international cooperation and solidarity for the realization of these rights. The growing integration and internationalization of economic activities, and the reduction in the margin of manoeuvre available to States further increase the importance of international cooperation and collective responsibility for the creation of an appropriate and favourable international environment.

141. The Declaration on the Right to Development (art. 3) requires that States should create the national and international conditions favourable to the realization of the right to development. In particular, they have a duty to cooperate with a view to ensuring development and eliminating obstacles to development.

142. The concentration of economic and political power was identified by the Working Group on the Right to Development as an obstacle to the realization of the right to development. In this connection, it underlined that shared responsibility for the realization of the right to development must be extended to actors in the private sector which are creators of wealth and hence agents of growth. To this effect, "ground rules" are necessary at the national and international levels to combat the abuses of economic concentration and restrictive trade practices. States should establish a regulatory framework and economic instruments which would ensure the transparent operation of the market and correct its deficiencies, to implement policies for the development of human resources, and to achieve equity in the allocation of resources and incomes.

143. The Programme of Action on the Establishment of a New International Economic Order provides that all efforts should be made (a) to prevent interference in the internal affairs of the countries where they operate and their collaboration with racist regimes and colonial administrations; (b) to regulate their activities in host countries, to eliminate restrictive business practices and within the context of national objectives facilitate, as necessary, the review and revision of previously concluded arrangements; (c) to bring about assistance, transfer of technology and management skills to developing countries on equitable and favourable terms; (d) to regulate the repatriation of the profits accruing from their operations, taking into account the legitimate interests of all parties concerned; (e) to promote reinvestment of their profits in developing countries.

144. In a previous report, the Secretary-General underlined that these standard-setting and monitoring efforts of the international community may contribute significantly to channelling the activities of TNCs along constructive lines for promotion of the right to development with full respect for all human rights.

Notes

1/ In 1989, the sales of TNC foreign affiliates were approximately US$ 4.4 trillion, while world exports were US$ 2.5 trillion. See E. Kolodner, Transnational corporations: Impediments or Catalysts of Social Development? Occasional Paper No. 5, World Summit for Social Development, UNRISD, 1994, p. 5; P. Bailey, A. Parisotto and G. Renshaw (Eds.), Multinationals and Employment: The Global Economy of the 1990s, ILO, 1993, p. 7.

2/ Peter J. Buckley, "World Investment Report 1994: Transnational Corporations, Employment and the Workplace". In: Transnational Corporations, vol. 3, No. 3, December 1994, UNCTAD, Division on Transnational Corporations and Investment, p. 93.

3/ Transnational corporations and employment: report by the UNCTAD secretariat (E/C.10/1994/3), para 60.

4/ Economic and Social Effects of Multinational Enterprises in Export Processing Zones, International Labour Organization/United Nations Centre on Transnational Corporations, 1988, p.4.

5/ Ibid, p. 40.

6/ Kolodner, op. cit., p.6.

7/ Towards the New International Economic Order: Analytical Report on Developments in the Field of International Economic Cooperation since the Sixth Special Session of the General Assembly, (United Nations publication, Sales No. E.82.II.A.7), para. 192. Cited in the study by the Secretary-General on the regional and national dimensions of the right to development as a human right (E/CN.4/1421), 1980.

8/ See Transnational Corporations in World Development: A Re-examination, (United Nations publication, Sales No. E.78.II.A.5) for an analysis of such difficulties. Cited in the study by the Secretary-General, ibid., para. 116.

9/ Report of the Working Group on the Right to Development on its third session, (E/CN.4/1995/27), paras. 76-77.

10/ Study by the Secretary-General, op. cit., para. 117.

11/ Aureliu Cristescu, The Right to Self-Determination: Historical and Current Development on the Basis of United Nations Instruments (United Nations publication, Sales No. E.80.XIV.3), para. 433.

12/ G. Rodgers, "Overcoming exclusion: Livelihood and rights in economic and social development", International Institute for Labour Studies, Discussion Papers, (DP/72/1994), p. 18.

13/ Study by the Secretary-General, op. cit., para. 121.

14/ Realization of economic, social and cultural rights: second progress report prepared by Mr. Danilo Türk, Special Rapporteur, (E/CN.4/Sub.2/1991/17) para. 186.

15/ Ibid., para. 178.

16/ Kolodner, op. cit., p. 22.

17/ Cristescu, op. cit., paras. 659-660.

18/ Study by the Secretary-General, op. cit., para. 118.

19/ Ibid.

20/ Ibid., para. 116.

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